

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Recommendations of the Independent Panel)	
Reviewing the Impact of Hurricane Katrina on)	EB Docket No. 06-119
Communications Networks)	
)	

Reply Comments of Gorham, Gold, Greenwich and Associates, LLC

Gorham, Gold, Greenwich and Associates, LLC, ("GGGA") a management consultancy, pursuant to Sections 1.415 and 1.419 of the rules of the Federal Communications Commission (the "Commission"), 47 C.F.R. §§ 1.415, 1.419, and the Commission's Public Notice released July 26, 2006 (DA 06-1524) hereby respectfully submits its reply comments in the above captioned matter.

SUMMARY

Commenters demonstrably agree that the FCC should take seriously the work of the Independent Panel and its pre-positioning

recommendations. Industry commenters support the Independent Panel's finding that telecommunications industry checklists are appropriate measures to improve readiness and response capabilities; and that all manner of disaster events be considered so that the checklists are wide-ranging and made generally available.

Several major market carriers assert they are already well-equipped with emergency preparedness and response plans that provide for their timely and competent response. Other commenters believe more needs to be done to assist smaller-sized entities, including non-communications companies, to be better positioned to react to emergency situations. There are many suggestions offered for how the Commission should expect the industry to develop ways in which the current state of preparedness and planning is elevated to a more competent level.

Individual company-specific preparedness plans are insufficient to prepare for, respond to, and recover from disasters that, by definition, cannot necessarily be constrained to individual corporation operating territories. The Commission recognizes that the public interest lies in state and local action to develop emergency plans and processes capable of responding to disaster events of much broader dimensions than individual companies currently envision. Furthermore, these plans should address and provide for service restoration activities that return the

communications industry to normal operating conditions as quickly and efficiently as possible.

To address these goals, the Commission should share, not shoulder, responsibility to have the industry ready and prepared to respond and restore services. We strongly encourage the Commission to invite state regulators to oversee (on the Commission's behalf) consensus-built preparedness initiatives in the communications arena. In this manner, the Commission would establish broad standards for the communications arena. These standards—against which other industries could model their preparedness and response programs—would place the communications industry in position where it is better prepared to address and mitigate the effects of the next catastrophe to strike.

Any prolonged failure to provide service to and by a communications company—or any ineffective response to an outage—severely threatens the planned response of other utilities, public safety agencies and responsible assistance groups. This greatly compounds the risk to the public and the difficulty of any restoration efforts.

I. PRE-POSITIONING FOR DISASTERS REQUIRES INDUSTRY PARTICIPANTS TO FOCUS RESOURCES ON BEING READY TO WITHSTAND EVENTS AND IMPLEMENT RESPONSE AND RESTORATION MEASURES.

GGGA suggests the comments speak specifically to the need for the Commission to make the issue of emergency checklists a priority for action. The other pre-positioning areas of public safety awareness, automatic waivers, coordinated outage reporting, and information disclosure can best be considered, developed and implemented throughout the industry apart from the issue of emergency checklists. The underlying issues for development and implementation of pre-positioning readiness checklists—when resolved by the Commission’s action in this proceeding—will pave the way for much of the ensuing work, including the other pre-positioning issues referenced in the Commission’s NPRM. The comments on the subject of emergency checklists are voluminous, varied, and valuable. They merit focused consideration.

It is notable that the commenters who actively participate in the work of the Network Reliability and Interoperability Council (“NRIC”) endorse that organization’s guidelines and “best practices” as the proper framework for emergency checklists. (See Comments of Verizon at Pp 10-12, Comments of US Telecom at Pp 10-12, Comments of Sprint Nextel at Pp 7-10, Comments of Qwest Services at Pp 2, *inter alia*) Other commenters echo

the Independent Panel's recommendation that consensus groups have an important contribution to make in forging standards and best practices.

AAPC supports the Panel's recommendations and its recognition that the most productive way of successfully implementing government policy objectives is to enlist the cooperation, assistance and participation of existing industry organizations.¹

Prometheus fully supports sector-wide readiness checklists.²

...the FCC should work with the industry to carefully craft effective checklists. Industry experts should be encouraged to share their technical and operational expertise in a cooperative setting.³

The Commission should encourage and assist in efforts by industry groups to develop proactive Readiness Checklists and best practices.⁴

SIA supports the "Readiness Checklist" concept, as well as efforts to identify industry "best practices" through industry consensus groups like the Network Reliability and Interoperability Council ("NRIC") and the Media Security and Reliability Council ("MSRC").⁵

The development of readiness check lists is critical.⁶

...the Commission can play a positive role in working with industry sectors to develop sector specific "readiness checklists." ... Communications suppliers should be encouraged to develop such checklists within their industry trade associations based upon relevant industry

¹ Comments of The American Association Of Paging Carriers at 8.

² Comments of Prometheus Radio Project at 4.

³ Comments of Alliance for Telecommunications Industry Solutions at 4.

⁴ Comments of Puerto Rico Telephone Company, Inc. at 9.

⁵ Comments of The Satellite Industry Association at 8-9.

⁶ Comments of Bechtel National Inc., Federal Telecoms at 10.

experience as well as best practices set forth by the Media Security and Reliability Council ("MSRC") and the Network Reliability and Interoperability Council ("NRIC")⁷

Commenters note that the Commission should instigate efforts at the NRIC and other consensus groups to begin the work to develop such emergency checklists. It merits mention that industry consensus groups do not have already-developed checklists for preparedness that can be immediately employed by the industry. This would be new work for the groups to undertake and will entail extensive negotiation, compromise, and time. While broadcast industry guidelines—as provided by the Media Security and Reliability Council ("MSRC")—are seemingly more to the point of enabling its members to have specific plans, the best practices for other parts of the communications industry are far less useful for industry participants to use in developing preparedness plans. Chief on point is the fact that NRIC did not develop its best practices with the intent that implementation be required;⁸ instead, they are strictly advisory practices and have been adopted to varying degrees.⁹ Commenters that support the Independent Panel's recommendation to defer responsibility to these consensus groups for this work product also note the work would be new and must be commissioned.

⁷ Comments of Motorola at 3.

⁸ Comments of Gorham, Gold, Greenwich and Associates, LLC "GGGA" at 6.

⁹ Comments of Verizon at 11.

AT&T supports the Panel's recommendation that industry consensus groups establish readiness checklists based on best practices and encourage their members to adopt them.¹⁰

AT&T looks forward to working with the next NRIC to develop this checklist ...¹¹

Indeed, many of the recommendations of the Panel could serve as a starting point for a charter for NRIC VIII.¹²

One action the Commission could take right away is to convene the NRIC VIII Council to address, among other things, some of the recommendations of the Independent Panel by updating best practices to take into account new technologies and applications.¹³

BellSouth argues that the NRIC best practices are a possible source for checklist development but suggests that group's existing best practices may not be appropriate to serve as the basis for the recommended emergency checklists.

[NRIC's] work is certainly a helpful start in the process of pre-positioning the communications industry for disasters in the future. This is not an endorsement, per se, of the NRIC's existing best practices checklist. Rather, BellSouth recommends that the NRIC's checklist be carefully reviewed in the light of lessons learned from Hurricane Katrina, and modified accordingly.¹⁴

¹⁰ Comments of AT&T, Inc. at 2.

¹¹ *Id* at 4.

¹² Comments of Sprint Nextel at 6.

¹³ Comments of Verizon at 11.

¹⁴ Comments of BellSouth Fⁿ. 18 at 9.

As neither the NRIC nor the MSRC provided comments in this proceeding, the record of either group's ability, willingness, or timetable for accepting the role of checklist maker for emergency preparedness is not made. Any suggestion by commenters to the effect that NRIC or MSRC would be able and willing to assume this responsibility is beyond their authority and knowledge.

It is obvious that the communications industry as a whole does not subscribe to the representation of their interests by the likes of NRIC, MSRC, ATIS, etc., which leaves as a challenge the usability of practices and guidelines that would be fostered upon the industry by the Commission were it to heed the recommendation of the Independent Panel.¹⁵ If the industry does not fully recognize the work these consensus groups perform—ostensibly on their behalf—any endorsement by the Commission of those groups to undertake the recommended task would not engender support from the industry, aside from the small group of participants who have joined the consensus groups.

It is relatively easy to see how telecommunications carrier participants, in general, can get lost trying to implement “best practices” (if they can even be located and interpreted) in the areas currently addressed by the NRIC. There are 517 NRIC “best practices” consisting of: Disaster

¹⁵ Independent Panel Report at 31.

Planning (102), Emergency Preparedness (182), and Cyber Security (233).

Ninety of these practices appear in more than one of the categories. Some are very briefly stated while others reach to dozens of pages of text.

Carriers serving small markets face a hugely expensive and daunting task, even if they were advised by the Commission to simply select the appropriate practices from this body of recommendations and implement them in their operations. Any “cafeteria” approach to the myriad NRIC recommendations has the effect of reducing them to educational at best and calling into question their real value to the industry as a whole and the community at large.

Most important, the NRIC practices are not practices expressly designed to prepare carriers for emergencies or to respond and restore services. Carriers would be better served by a purpose-driven checklist of practical measures that carriers could reasonably embrace and use as a foundation for their preparedness policies and procedures. Many of the NRIC practices that fall into the relevant categories are too far removed from the concrete requirements of practices and procedures that emergency conditions demand. Consider the following examples of NRIC “best practices” that lack the specificity needed to coordinate an efficient and effective response:

“Network Operators and Service Providers should monitor the network to enable quick response to network issues.” BP 7-7-0401¹⁶

and

“Network Operators, Service Providers and Equipment Suppliers should evaluate the vulnerability of storage locations in an effort to protect critical spares.” BP 7-7-5262¹⁷

In sharp contrast to the NRIC efforts, the MSRC’s web site provides helpful material for its industry members and organizations for developing recovery plans.¹⁸ It provides separate model plans for local cable, direct broadcast satellite, local radio and local television stations. Operator-members use these to develop their individual emergency response plans that they are encouraged to share with organizations. These plans may be adequately developed locally and communicated locally:

The ultimate objective is to create a public/private partnership that will effectively deliver emergency information to citizens as quickly as possible to mitigate the impact of major emergencies and disasters.¹⁹

¹⁶ [http://www.nric.org/NRIC Best Practices](http://www.nric.org/NRIC_Best_Practices).

¹⁷ *Id.*

¹⁸ <http://www.mediasecurity.org/> – Best Practices from MSRC I.

¹⁹ “MSRC Guide to Establishing Local Coordination of Emergency Communication Systems; www.mediasecurity.org/documents/index.html.

II. SOME CARRIERS ARE MORE PREPARED THAN OTHERS

The largest carriers publicly profess to be well-equipped to meet disasters head-on with emergency, response , and continuity plans. (See Comments of Verizon at Pp. 5-8, Comments of AT&T at Pp. 2, Comments Of Qwest at Pp. 5-6, Comments of Sprint Nextel at Pp 4-7, Comments of Cingular Wireless at Pp 2-6). The Commission also received comments from USTelecom on behalf of its members that assert its members are committed to preparedness planning and disaster response.

USTelecom members place an extremely high value on the security and reliability of their service, networks, and facilities. Whether large or small, they invest heavily in disaster-recovery planning to ensure that their business and residential customers enjoy uninterrupted service of the highest quality.²⁰

USTelecom offers examples of preparedness taken by three of its small members, CC Communications (Fallon, NV), Shenandoah Telephone Company (Edinburg, VA) and Puerto Rico Telephone Company (San Juan, PR) as evidence that its members “invest heavily in disaster-recovery planning to ensure that their business and residential customers enjoy uninterrupted service of the highest quality.”²¹ USTelecom notes that its

²⁰ Comments of The United States Telecom Association (“USTelecom”) at 4.

²¹ *Id.*; see also Comments of Puerto Rico Telephone Company, Inc. at 1-5.

members take these actions “in order to ensure ... quality service to their customers”²²

It is important for the Commission to consider: (1) how companies choose the disaster scenarios for which they prepare; (2) the backdrop against which they develop their reaction timeframes; (3) the variables they use as factors for their responses; and (4) the principles underpinning their service restoration plans. Every preparedness plan is subject to cost-benefit analysis to minimize the investment and operational costs of their preparedness system, while hoping to maximize the benefits to the company from those plans. The plans also provide an accounting for the company’s efforts to protect its assets and its shareowners’ investments.

USTelecom does not advise the Commission that its members, especially its smaller members, universally have emergency preparedness plans. Nor does USTelecom advise those that have such plans whether those plans conform to any standards or recommendations. Without a record of the extent to which small market telecommunications carriers have developed or relied upon emergency preparedness and response plans of their own device, the Commission should not be lulled into comfort that the carriers will be prepared for any particular type of emergency.

In both of these dimensions, the Commission must look at the broader picture of preparedness, not simply which companies have plans.

²² USTelecom at 8.

The Commission must assure itself—and the public—that the preparedness plan of every communications company is comprehensive. The Commission must be assured that it appropriately guides the company's managers and staff in responding to the emergency at hand and restoring services as quickly and as effectively as possible. Furthermore it must be assured that any provision for assistance from other entities, such as power and emergency services, is formalized and coordinated. Finally, the plans must fully recognize a responsibility to contribute to the restoration of other services to the public at large as well as their own.

Commenters ask that the Commission acknowledge the work products of consensus groups such as NRIC and also insist that the Commission not require industry participants to implement work that would redound from new guidelines, standards, best practices, and recommendations in the areas of preparedness. USTelecom²³ makes a complicated plea for the Commission not to require the industry to develop emergency preparedness plans that conform to any mandated standards.

USTelecom does not believe that mandating disaster relief requirements will lead to the creation and implementation of best practices.

In its desire to encourage the development of new best practices, the FCC must be careful not to mandate these practices.

²³ USTelecom Comments at 11.

If specific implementation decisions are left to individual service providers who can use their own technical and operational judgment to determine where and when to deploy best practices, network reliability and security will be cost-effectively improved.

Mandating specific criteria for business continuity plans or compliance with a standard readiness checklist will not ensure that a service provider is prepared for a disaster.

US Telecom's position is not unlike the "keep it voluntary" requests advanced by BellSouth²⁴, Verizon²⁵, The Satellite Industry Association²⁶, and Puerto Rico Telephone Company.²⁷

We believe that it is unacceptable as a matter of public interest policy that best practices (developed by the industry for its own use) remain an option for use. The proposition that current industry practices can be improved to address emergency preparedness and response lacks any substantive basis in the experience of NRIC. The very fact that the current standards fail to address many of the most obvious operational threats clearly demonstrates the limited abilities of such national standards groups in reaching consensus on matters of this type. Furthermore, we believe the

²⁴ Comments of BellSouth at 9.

²⁵ Comments of Verizon at 11.

²⁶ Comments of The Satellite Industry Association at 9.

²⁷ Comments of The Puerto Rico Telephone Company, Inc at 10.

recurring support from commenters to this proposition runs counter to the Commission Chairman's view expressed to the House Subcommittee on Telecommunications and the Internet Committee on Energy and Commerce:

We should ensure that all communications providers develop and adhere to best practices to ensure reliability in the event of a disaster and quick restoration of service and facilities in the event service is disrupted.²⁸

Surely the Commission has a desire for stronger conformance with standards, best practices, guidelines and recommendations than having telecommunications carriers pick and choose the extent to which they elect to provide for the next emergency to strike.

III. THE COMMISSION SHOULD SET EXPECTATIONS FOR CARRIER PREPAREDNESS PLANS AND PLACE THE ONUS TO DEVELOP THESE PLANS WITH THE CARRIERS AND STATE REGULATORS

A more effective approach for the Commission's efforts would be to have responsibility for developing incident-specific emergency checklists be placed at the state level where industry experts can collaboratively discuss and develop plans that would be responsive and responsible for carriers and industry participants. Such checklists would draw from the best

²⁸ Written Statement of Kevin J. Martin, Chairman – Federal Communications Commission: Hearing on Public Safety Communications from 9/11 to Katrina: Critical Public Policy Lessons; September 29, 2005 at 7.

practices developed by industry consensus groups such as NRIC and MSRC as they become available as well as other region-specific practices and protocols developed by the individual groups. GGGA recommended the formation of state-level working groups capable of better addressing the Commission's vision of preparedness and sufficiently competent in formulating preparedness plans.²⁹ Other commenters offer similar guidance to the Commission:

The challenge, then, is to craft federal principles that establish articulate expectations for the nation's communications disaster-recovery needs while leaving the details associated with realizing those expectations to industry and other government entities.³⁰

The recommendation that the industry develop business continuity plans, train on disaster recovery and exercise capabilities has at its heart the need for carriers who would in normal times be staunch competitors become collaborators. Before any of the planning, training and exercising can be truly preparatory the Commission will need to implement a mechanism that encourages appropriate collaboration.³¹

It is suggested that State Regulators be invited and involved in this process to provide a local ability to provide rapid response for coordination assistance in smaller disasters and to assure that plan and exercise development are related to the most likely scenarios in the region.³²

²⁹ Comments of GGGA at 4.

³⁰ Comments Of Qwest Services Corporation at 2.

³¹ Comments of the Enhanced 911 program of The State of Washington at § 12, 13.

³² *Id.*

The Commission must clearly establish the overall vision for industry preparedness consistent with its policy making role, as noted by Commissioner Copps³³ in conjunction with the release of this proceeding:

As Title I of our enabling statute makes clear, we also have a statutory duty to ensure the safety of our people through secure communications networks.

Commenters that have developed preparedness plans offer the Commission a nucleus of leadership that can be used as an ensign for other industry members to follow. These early developers allow for the transfer of the developers' experience in: (1) planning for disasters, (2) preparing for the onset; (3) drawing up response and restoration plans; and perhaps most significantly (4) their expertise in exercising their systems to verify that they can be effective in times of significant emergencies.

Those that plead for flexibility in their checklists can ensure that their plans conform to the relevant standards and best practices that apply to their service geographies, facilities, service offerings, and service partners. Moving the work to the state level gives keen insight to the level of preparedness for types of emergencies envisioned that would be lost at a national level of industry collaboration.

³³ Separate Statement Of Commissioner Michael J. Copps FCC 06-83.

IV. COMMUNICATIONS INDUSTRY PARTICIPANTS ARE SUPPORTED BY OTHER INDUSTRIES AND PROVIDE CRITICAL SERVICES TO OTHERS

It is not enough that communications companies have preparedness plans designed to protect themselves and restore services after an emergency. Companies that provide vital services must have plans that recognize their integral relationship with other communications industry members and must be prepared to share those plans with others. Communications companies do not function alone or provide their services in a vacuum; they are part of a much larger, integrated network that relies on each component to function properly. When disaster strikes, the way in which critical services are restored has a significant impact on any other company's ability to effectuate its own service restoration plan.

The Independent Panel—and others—noted some of these interdependencies exposed in last year's storm-stricken Gulf area where it highlights power failures, wireline and network infrastructure failures, and security issues, as factors that impeded restoration of communications services throughout the hard-hit region.³⁴ Because of these vital relationships, preparedness planning efforts must recognize the importance

³⁴ See Independent Panel Report §A at 6-13; *see also* "Hurricane Katrina: A Nation Still Unprepared" Report of the Senate Committee on Homeland Security and Governmental Affairs at Chapter 18-1. "Katrina inflicted widespread destruction on communications and electrical infrastructure. With cellular towers down, land lines submerged, and no power, telephone and wireless communications were largely impossible in the areas most heavily affected by the hurricane."

of close cooperation, mutual aid and effective communications with others within and outside of industry sectors. If the relationships are not part and parcel of each company's planning, when the event strikes, service restoration will be a much lengthier and more expensive process than it need be.

Commenters note:

It is critical that the electric, gas, pipeline and telephone utilities be included in such coordination efforts. In addition to being on the front line in the recovery efforts, downed power lines and broken transmission and distribution lines add to the effects of the disaster. Moreover, emergency operations centers and emergency response facilities rely on utilities for essential services such as power, internet connectivity via cable systems and broadcast television ...³⁵

The Commission should work with and consult the electric utility sector and its associations to establish best practices and procedures, particularly for cross-industry coordination and support ...³⁶

We are only beginning to understand the wide-ranging interdependence of our national infrastructure, particularly now that some form of "communication" (such as supervisory control and data acquisition or SCADA, networks, remote video monitoring, geo-location, etc) is increasingly embedded in networks and infrastructures. The power grid impacts all forms of communications; fuel supplies (and viable alternates) affect both power and communications networks; road

³⁵ Comments of The International Association of Fire Chiefs, Inc. ("IAFC"), and The International Municipal Signal Association ("IMSA") at 6.

³⁶ Comments of National Rural Electric Cooperative Association at 4

access impacts availability of fuel supply; and all are affected by post disaster security conditions.³⁷

As we noted in our comments at 3

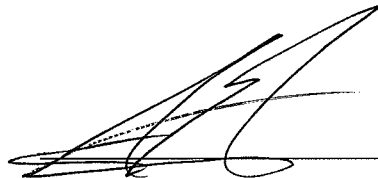
The proper role of the Commission would be to set preparedness expectations that telecommunications carriers, as well as other regulated utilities including electric, gas, water, and transportation services, would act upon for the markets they serve.

The Commission should set out its vision for preparedness planning and encourage industry participants to be in constant contact with their related entities to ensure preparedness, including response and restoration activities are coordinated and the agreements to supply aid and assistance are clear and enforceable.³⁸

³⁷ Comments of Bechtel National Inc., Federal Telecoms at 5-6.

³⁸ See: Comments of Qwest Services Corporation at pp 5-6 "Moreover, Qwest's contracts with many of its major vendors require the vendor to have business continuity plans of their own, subject to Qwest's review and comment."

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Mann', is written over a horizontal line.

Aaron J. Mann, Esq.
BLACKWELL, SANDERS, PEPER MARTIN, LLP
4801 Main St., Suite 1000
Kansas City, Missouri 64112

Gregory L. Mann, Managing Vice President
Gorham, Gold, Greenwich & Associates, LLC
Post Office Box 23626
Shawnee Mission, Kansas 66283-0626
Tel: 913 814-9820
Fax: 913 814-9083

Timothy M. Connolly, Vice President
Gorham, Gold, Greenwich & Associates, LLC
Post Office Box 23626
Shawnee Mission, Kansas 66283-0626
Tel: 913 814-9820
Fax: 913 814-9083

Dated August 21, 2006